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WASHINGTON, D. C.

15 CENTS

The Democrats Move Into Opposition

The big news of the week is that the Democratic party has begun to act as an opposition on foreign policy. The extent of that opposition is limited, its future course is uncertain, its leaders are timid. Yet the attack in the Senate by Sparkman and his colleagues on the foolhardy recklessness of the "bold new policy" in the Far East may prove of first-rate political importance. It made one major party in this country the sounding board for the same alarm which Western Europe and the Asian neutrals feel over the deneutralization of Formosa, the talk of blockading China and bombarding Manchuria. With the disappointing news Dulles and Stassen brought back from their European trip, opposition by the Democrats may help put a brake on an Administration moving giddily toward a general Asian and world conflict.

What rankled with the Democrats and made opposition an urgent matter of party politics was the too clever way Eisenhower described Truman's Formosa order in his State of the Union message. To say, as Eisenhower did, that its purpose was to protect the Communists on the mainland from the Nationalists on Formosa was too much for the most submissive Democrat to swallow. "Against the background of the accusation that our policy has been dominated by pro-Communists," Fulbright of Arkansas pointed out angrily, "such a statement certainly was unfortunate." Sparkman chimed in, "I certainly think it was, particularly when it is coupled with a very fine plea in behalf of a bipartisan foreign policy." Next as a source of irritation was the failure to consult the Democrats. Sparkman said they were warned that an announcement on Formosa was coming but "there was no consultation so far as developing a policy was concerned."

The debate, coming as it did three days after the Eisenhower message, had the marks of a well planned demonstration. There was an almost contrapuntal neatness about the interruptions with which Fulbright, Lehman, Kerr, Johnston of South Carolina, Gillette, Monroney, Magnuson and Douglas emphasized the main points of the Sparkman speech and helped develop the theme with just the right leading questions. Then there was a coy by-play which seemed more than coincidental. Magnuson asked the Senator from Alabama "whether the Joint Chiefs of Staff were consulted prior to this order," that is the order to deneutralize Formosa. Sparkman replied, "I have read an article by a columnist who says they were not consulted." Thereupon, without asking what columnist, Magnuson asked permission to put in the Congressional Record a column by Marquis Childs which had appeared in the Washington Post that morning. Sparkman joined in the request.

What Childs reported was indeed sensational. He said that the Joint Chiefs were told such a move was being considered but that Eisenhower would reject it and that paragraphs drafted for inclusion in the message on the subject "were torn up and thrown in the wastebasket." Childs said

this was the last the Joint Chiefs heard of the matter until they saw the Formosan recommendation in the State of the Union message. The answer to Magnuson's question, according to Childs, was that the "wraps" had been taken off Chiang "without the prior knowledge of the Joint Chiefs." Childs is one of the ablest men writing in the capital but it is hard to believe that this column appeared the very morning of the debate without the prior knowledge of Sparkman, or that Sparkman would have relied upon it unless he had verified the facts directly with the chairman of the Joint Chiefs of Staff, General Omar Bradley. The Formosan move was a victory for MacArthur and his allies over Bradley, long an opponent of fighting the wrong war at the wrong time and the wrong place. The affair makes one suspect a hidden play from Bradley to Sparkman, with a "leak" to Childs just in time for the debate.

Always the cautious politician, Sparkman was almost ludicrous at times in his effort to lead the opposition and still protect his rear. At one point, as Wiley, chairman of the Senate Foreign Relations Committee was about to leave the chamber, Sparkman said he wanted Wiley "to understand clearly that I have not said one word in criticism of the President's order. In fact, I said it was inevitable eventually." When Knowland challenged him, Sparkman hastened to say that he was not discussing the idea of a China blockade or "hot pursuit" across the Yalu. Sparkman is not the man to take unnecessary risks. He insisted he was merely asking questions. But the questions he asked were nonetheless deadly and the country is indebted to him and his colleagues for asking them. "Is this the first step toward enlarging the war in Asia," he asked in conclusion. "Is this the first step toward involving United States forces on the mainland of China? Is it the first step toward more casualties, instead of less? Is it the first step toward global war?" These were not simple queries, but the rhetoric of opposition.

The Republican excuse for not informing the country is in order not to "telegraph our punches" to the enemy, but the Formosa order itself was telegraphing a punch months before Chiang can possibly be strong enough to deliver it. If punches are not to be telegraphed in advance, what can be said in defense of Wiley's loose talk of bombing China's railways and Short's leak of Radford's private testimony about the possibilities of blockade? It is the American people, not the enemy, which is being kept in the dark. The most urgent question raised by Sparkman is "Who protects Formosa in the event Chiang's raids provoke a Communist attack upon the island?" The Republicans say the Korean war would have been avoided if Truman and Acheson had warned the Communists that an attack would bring American armed force into action. The doubt over Formosa is as dangerous, and makes it look as though some people would like to provoke an attack.

The Lattimore Case: Ben Franklin Was Prophetic

When the Framers of the Constitution were writing the treason provisions, Benjamin Franklin amended them to provide as an additional safeguard that two witnesses be required for each overt act. "Prosecutions for treason," Franklin said sagely, "were generally virulent, and perjury too easily made use of against innocence." A century and a half later perjury in new form has become a favorite weapon in American political prosecutions, in no case more strikingly than in that of Owen Lattimore.

The bare facts are eloquent. The China Lobby has long been gunning for Lattimore. McCarthy called him "the top Soviet agent" in the State Department. But when Whittaker Chambers was before the House Un-American Activities Committee on August 3, 1948 and was asked whether he knew Lattimore, Chambers replied "No, I don't." Even with McCarthy, Lattimore seems to have been an afterthought. In his original attack February 20, 1950, charging that the State Department was overrun by Communists, McCarthy did not mention Lattimore. It was not until a month later that he first named Lattimore, and then only as "pro-Communist." Within a week Lattimore's importance swelled enormously. On March 20 McCarthy told the press that a man "connected with" the State Department was "the top Russian espionage agent in the United States," giving Lattimore's name "off the record." But ten days later McCarthy was back-tracking. To the Senate on March 30, he said "I fear in the case of Lattimore I may have perhaps placed too much stress on whether or not he has been an espionage agent."

The reason for the hedging became clearer, when McCarthy was required to produce proof before the special Senate committee set up to investigate his charges. McCarthy called three witnesses—Louis Budenz, Freda Utley and a man named John J. Huber. Budenz, under questioning by the committee, admitted that McCarthy's charge against Lattimore was "technically . . . not accurate." All he had to report was hearsay and this did not allege that Lattimore was an espionage agent. Freda Utley after three hours on the stand admitted that she did not think Lattimore was Russia's "top espionage agent," that she did not think he was an agent of any kind and that she was not prepared to say of her own knowledge even that Lattimore was a Communist. The third witness, Huber, a former FBI informer, flew down from New York to testify for McCarthy against Lattimore but lost his nerve at the last moment and disappeared. McCarthy made no effort to find him.

What haunted Huber is what haunted Budenz. Huber was supposed to testify that he saw Lattimore at a party in 1946 at the home of Frederick V. Field. Huber had been an FBI informer at the time. J. Edgar Hoover had already shown several Senators on the Tydings committee a complete summary of the FBI file on Lattimore; no such incident appeared in it. Huber's two volume diary as an FBI informer had been handed over the year before to the McCarran committee. Huber spent three days

before the committee in September and October, 1949, naming hundreds of persons as Communist party members or sympathizers. He never mentioned Lattimore.

A similar shadow fell across the Budenz testimony. Budenz said he heard Earl Browder praise Lattimore for placing Communist writers in the Institute of Pacific Relations, that changes of party line were "transmitted" to Lattimore, and that he saw a secret Communist document on onion skin paper which referred to Lattimore as "L" or "XL."

Members of the Tydings committee wanted to know why none of this information was in the FBI summary J. Edgar Hoover had shown them, although Budenz had spent many weeks telling the FBI all he knew after he left the Communist party in 1945. Budenz admitted he had not gone to the FBI with this information until after he learned that the committee members had seen the FBI dossier.

Budenz was soon to give a striking example of how his memory could be improved with the years. Before the Tydings committee, Budenz said only of Wallace's trip to China in 1944 that it "was followed with very great care and detail by the Communist party," and of Lattimore "that at that time Jack Stachel advised me to consider Owen Lattimore as a Communist, which to me meant, because that was our method of discussing these matters, to treat as authoritative anything that he would say or advise." But a year later before the McCarran committee Budenz was asked by its counsel Robert Morris, "Did you hear at that time in official Communist party circles that John Carter Vincent and Owen Lattimore were members of the Communist party travelling with Wallace?" Budenz answered, "Yes, sir."

The story was growing, but Budenz was uncomfortable. When McCarran asked him to elaborate, Budenz's reply was a covert back-down. In elaborating, Budenz said the Communists followed the Wallace trip "with a great deal of interest," that in their discussions "it was pointed out that Mr. Wallace was more or less under good influences from the Communist viewpoint," that he had with him Vincent and Lattimore "both of whom were described as being in line with the Communist viewpoint, seeing eye to eye with it, and that they would guide Mr. Wallace largely along these paths." If both men were Communist party members why all this talk about "more or less" and "being in line with the Communist viewpoint"? Why was Budenz hedging? McCarran and Ferguson were annoyed. When Ferguson asked Budenz whether the Communists succeeded in carrying out their objective in the Wallace mission, Budenz replied "Absolutely it was carried out."

The wily Budenz had at last fallen into an unintended trap. Within a few weeks Wallace appeared before the committee with the columnist, Joseph Alsop, who had been in China at the time as aide to General Chennault. Alsop testified that "the first and basic untruth was Budenz's assertion that the Wallace mission to China carried out a Communist objec-

tive. In fact, it did the precise contrary." Alsop showed that the result of the Wallace trip was a cable to Roosevelt asking him to remove General Stilwell, who was friendly to the Chinese Communists, and replace him with General Wedemeyer, who was bitterly anti-Communist. That provided the climax to Budenz's tortuous testimony on Lattimore. It explains why the McCarran committee did not dare ask for Lattimore's indictment as a perjurer on those points where his testimony conflicted with that of their prize witness. To have done so would have required them to produce Budenz in court and subject him to cross-examination by counsel for Lattimore. The contradictions in the record were enough on their face to destroy his credibility.

So the McCarran committee waited several months and then last spring started off on a new tack. It subjected Lattimore to the longest interrogation in the history of Congressional investigation. For 12 days he was questioned, as heretics were once questioned in the vaults of the Inquisition. He was taken back many years over obscure details in an effort to trip him up. At the end McCarran told a reporter Lattimore had been caught in nine "significant untruths," but when reporters asked whether this meant the committee was charging Lattimore with perjury, the Senator replied lamely, "No. Perjury has various elements."

One of the elements is materiality. A false statement under oath must be material to be perjury. Here we touch on the central point of the drama which unfolds this week-end when the pre-trial legal motions are filed in the Lattimore case. Of the seven counts on which Lattimore was finally indicted last Fall, six deal with details as to matters which took place more than ten years ago. Whether these are important enough to be basis for a perjury conviction will be for the courts to decide. The other count is vague enough to convict any liberal or radical in the current atmosphere. It says Lattimore committed perjury when he asserted that he had "never been a sympathizer or any other kind of a promoter of Communism or Communist interests." This is so much a matter of opinion that in any other time and atmosphere it would almost certainly be thrown out by the courts without trial.

As the hullabaloo rises, the actual charge diminishes. How many people will realize that Lattimore is not charged with perjury for denying that he was "top espionage agent" for the Soviets, or even for denying that he was a Communist party member? The details are now cut so thin that one count of the indictment alleges that he perjured himself in denying that anybody told him before 1950 that a certain Ch'ao-tung Chi was a Communist. The witch hunters are willing to settle for any split hair, so long as they get any kind of a conviction. Their own political futures are at stake. The acquittal of Dreyfus finally ruined his accusers, and shook a rotten bureaucracy to its foundations.

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COMMENT

Patriotic Economy Suggestion

Washington, D. C.

Senator Wiley has just introduced a bill to allow the Director of the FBI, the director of military intelligence, the director of air force intelligence and the chief of the Office of Naval Intelligence to tap telephone wires under certain rules and regulations "in the conduct of investigations to ascertain, prevent, or frustrate any interference . . . with the national security or defense by treason, sabotage, espionage, seditious conspiracy, violations of neutrality laws", etc. Stopping such legislation in this atmosphere would seem almost impossible; the wires are being tapped anyway; this bill would at least require a permit by a judge; the Department of Justice now taps wires on its own. At the moment we can only muster enough energy to be whimsical about it.

We wonder first of all why the Secret Service, the Treasury investigation bureau and Central Intelligence operatives are discriminated against in this bill. We also suggest, in this new and efficient Republican era, that maybe some provision ought to be made for a kind of traffic control on tapped wires. What happens when FBI, G-2, ONI, T-operatives and Secret

Service men all listen in on the same wires? Should the telephone subscriber be allowed some reduction in rate for inferior service? Swept up in the current enthusiasm for economy, the thought also strikes us—we lay it freely at the Eisenhower Administration's feet—that perhaps the cost of extensive wire-tapping could be reduced by combining the tap with a commercial answering service, of course at a fair fee. Some nights the secret agent might even help earn his salary by sitting up with the baby.

Still Higher Up

Now that the Secretaries of Defense, Army, Navy and Air have been confirmed, under special dispensation allowing them to pass onward and upward contracts in which they might have a financial interest, we see that Eisenhower—as if to forestall Congressional criticism—has put his own holdings in an irrevocable trust. The arrangement is that if Messrs. Talbott, Anderson, or Stevens see a contract of this kind, they will pass it on to their boss, Wilson. As for Wilson, he told the Senate Armed Services Committee that if some contract came to him "of a nature that could . . . be misunderstood" he would "step aside and have somebody else make that decision, if necessary, the President of the United States." And what happens if the President has a bit of stock stashed away in that irrevocable trust which would earn more if the decision went a certain way? To whom would the President pass on the contract for final action? God?

Since to judge by the speeches of so many of our generals, God is already enlisted in our armed forces, we see no reason why He should not pinch hit as super Secretary of Defense, except of course in those cases where there may be some conflict of interest.

The Unhappy Moor

There is a detective agency in New York specializing in domestic matters which advertises, "let us give you peace of mind". This implies that Othello might have lived happily ever after if only he had put enough gumshoe men on Desdemona's trail. But suspicion is a

poison which once injected thrives and destroys. Mistrust paralyzes normal relations where it does not actively breed misconduct. That detective agency slogan comes to mind as the Eisenhower Administration prepares to revamp the whole loyalty program. No judgment is possible until the new order has been made public. From advance indications it is supposed to have the virtue of allowing people to be dropped from government service without branding them for the rest of their lives as disloyal, though it is difficult to see how this can really be avoided. There would still be the tale-tale blur on one's employment record. Imagine explaining to the next prospective employer that you were just a security risk, not really disloyal, at least in your own opinion. . . .

One difficulty about the new program is that those Federal employees who have passed the "reasonable grounds" test first established under the Truman loyalty program and later the "reasonable doubt" test with which it was amended last year might have to run the gauntlet again to pass the new "security risk" standard. This will hardly be conducive to peace of mind in the Federal service. My own feeling is that this new setup will make discharge so easy that administrators will fire anybody who might possibly get them into trouble "on the Hill". Already the test of security is sometimes whether the retention of any particular subordinate would render the administrator politically insecure. That M which casts its shadow on the loyalty program is as often McCarthy or McCarran as Moscow.

Hat's Off

To Arthur Miller, for a brave and good play in "The Crucible", which I saw last Saturday in New York. The author of "Death of A Salesman" has made exciting theatre and moving drama of the Salem witch hunt. Without in any way straining for parallels, he has provided a parable for our own haunted times. I hope to discuss the play and the criticisms of it in a later issue, particularly that line about "but witches were purely imaginary, whereas today. . . ."

"Capsule Capital Commentary"

A bright reader in Cleveland, Ohio, pins that label on the Weekly in sending in another sub for a friend. People seem to like it, though the editor and publisher (who is also the office-boy) sometimes gets a little breathless. The first response to our book offer last week came from a Japanese, who sent in \$6 for a sub and a copy of "The Truman Era", a collection of my best pieces since 1945 in *PM*, the *New York Star* and the *Compass*, soon to be published by the enterprising *Monthly Review*, which also published (as its first venture of the kind) my "Hidden History of the Korean War". The latter has just appeared in Japanese translation, which may explain that first response. The book will sell at \$3.50 and can be obtained in advance of publication free with two subscriptions to the Weekly, or you can get a sub and the book for \$6. For the many encouraging letters, some of which I have not yet been able to answer personally, even on a double union day (16 hours), my thanks.

—I. F. Stone

Second Round at Foley Square

New York

The second Smith Act trial, just ended here, was an improvement over the first. Some modicum of justice began to be apparent in the gloomy skyscraper which houses the Federal Courts on Foley Square. For the first time in any of the Smith sedition prosecutions two defendants were acquitted.

A respected veteran of the federal bench, Judge Edward J. Dimock, conducted the trial with a decorum strikingly absent from the first proceedings, when Judge Harold Medina took it upon himself to act as a kind of picador, baiting high-strung counsel into contemptuous conduct, to the constant refrain of insinuations that they were engaged in a plot against his health. The four brave lawyers who ventured in the hateful atmosphere of present-day America to defend the so-called "second string" Communists had to contend neither with hypochondria nor an obvious hostility from the bench.

The lawyers deserve to be honorably mentioned. John T. McTernan, Frank Serri, Mary Kaufman and James T. Wright took on a heavy task in the shadow of the jail sentences and disbarment actions visited on defense counsel in the first Foley Square trial. To their names must be added that of Professor Thomas I. Emerson of Yale Law School who ably argued the constitutional issues on motion to dismiss.

The second New York trial was also the first of the current sedition prosecutions in which less than the maximum sentence was imposed, an outcome painfully reflected in the anguished protest of certain newspapers which have done their best to whip up a lynch spirit. Five years and \$10,000 fine is the maximum penalty now provided by the federal code for any conspiracy, whether to commit murder, smuggle narcotics or—as in this case—to advocate at some future time, "when the situation is ripe," the overthrow of the Government by force and violence. Judge Dimock felt so distant a political offense as "conspiracy to advocate" called for a lighter penalty than conspiracy to commit murder.

In this case also the repressionists began to be hoisted by one of their own petards. The directed acquittal of two defendants, Simon W. Gerson and Isadore Begun, both New York State officials of the Communist Party, was based in part on that provision of the McCarran Internal Security Act which

says no one shall be convicted merely for being a member or official of the Communist Party. The weird provision, of course, was necessary to buttress the registration provisions of that Act. Under the Fifth Amendment, it would be too clearly unconstitutional to force people to incriminate themselves by registering their political affiliations if such affiliations were themselves enough to convict them of crime.

The victories in Judge Dimock's court, small as they are, may be enough, if pressed on appeal to their acid conclusions, to dissolve the shoddy fabric of these prosecutions. It is difficult logically to reconcile the directed acquittal of two "second string" leaders with the conviction of the rest, since it was often only by piling dubious inference on demonstrated perjury that any kind of evidence was marshalled against them.

It was only by making this a conspiracy prosecution that some semblance of a case could be achieved. The Government thereby had the advantage of semantics—conspiracy always sounds sinister to a jury—and of the looser rules of evidence allowed in conspiracy trials. It was no longer necessary to prove advocacy but only "conspiracy to advocate."

The record is juicy with examples of the logical fallacies conspiracy trials invite. Again and again evidence was submitted as proof of conspiracy which was properly admissible only if a conspiracy had already been proven. Vague remarks made twenty years ago were adduced as evidence of a present attitude. General expressions of approval of certain Marxist classics were twisted into evidence that a defendant was proposing to do in the America of the 1950's what Lenin advocated in the Russia of 1905.

The subpoena of FBI records in one striking instance showed that the most sensational of the informers had lied to the court. A scandalous incident disclosed prejudice on the part of several jurors. As the voluminous record is opened to study on appeal, it will be seen that the chief victim of the prosecution is not the Communist Party but a growing list of historic constitutional and procedural safeguards. If these convictions stand, freedom of expression in America must dwindle, for by the standards being established in these prosecutions, there are few dissenters and little dissent which could not ultimately be brought within the nebulous purview of that strange thing called "conspiracy to advocate."

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